IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5060 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PANCH TIRTH TOURIST - Petitioner(s)
Versus
WESTERN RAILWAY THR' DIVISIONAL RAILWAY MANAGE - Respondent(s)

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Appearance :
MR CL SONI for Petitioner(s) : 1,
MR RAMNANDAN SINGH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 26/04/2007

ORAL JUDGMENT

1. The petitioner's license for Rail Travellers' Service Agent has not been renewed and by order dated 7th March, 2005 his application for renewal has been turned

down. The petitioner has, therefore, challenged this order on several grounds, main being that before passing such order, he was not heard.

2. Mr. C.L. Soni learned advocate for the petitioner has placed reliance on Rule 7 of the Authorization of Rail Travellers' Service Agent Rules, 1985 [the “Rules” for short] and has submitted that for not renewing the license, the authority is required to assign adequate reasons and as a natural precedence thereof, the petitioner is required to be heard. He has placed reliance on the order passed by the learned Single Jude of this Court dated 21st October, 2005 in Special Civil Application no. 5483/2005 in the case of Hindustan Travels v. Western Railways. As against that Mr. Ramnandan Singh learned advocate for the respondent has supported the order and has submitted that the authority has rightly not renewed its license and the petitioner has no valid cause to make any grievance before this Court.

3. Having considered the arguments of the learned advocates and also on perusing the record of the petition, it appears that the petitioner has been intimated vide communication dated 7th March, 2005 that

its request for renewal of Rail Travellers Service Agent license has not been considered favourably by the competent authority, hence, its Rail Travellers' Service Agent license has been terminated with immediate effect. This shows two glaring defects in the order; firstly that it does not speak of any reasons, and it is passed without granting any opportunity of hearing to the petitioner. Secondly it can also be seen that the said order suffers from vice of non application of mind. As per Rule 7 of the Rules, the authority has to assign reasons, if the renewal is not granted. It appears that the petitioner had been serving as an agent for the last many years. If the authority had thought it fit not to renew the license for any reason, at least adequate opportunity of hearing ought to have been afforded to the petitioner to defend its interest and thereafter the authority ought to have assigned adequate reasons for not considering the request of the petitioner for renewal of the license favourably. That does seem to have been done here. For that reason the order is required to be quashed. Further the order itself shows that the license is terminated. This is a case of renewal of license and not termination of the existing license and, therefore, it is obvious that it is passed without application of mind. For this reason also the impugned order is required

to be quashed. Hence order dated 7th March, 2005 is quashed and set aside. The matter is remitted to the concerned authority for its reconsideration. It is directed that the petitioner will be given show cause notice in advance and it will be granted proper opportunity of hearing and thereafter necessary decision will be taken. The petitioner at the hearing will be permitted to produce any material which it thinks fit to defend his interest. In the event of decision going against the petitioner it will be supported by adequate reasons in accordance with Rule 7 of the Rules. The exercise to be completed as expeditiously as possible.

4. In the premises aforesaid, the petition is allowed. Rule is made absolute with no order as to costs.

[Akshay H. Mehta, J.]

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